



United States Government Printing Office
Washington, D.C. 20401

October 27, 1986

[Redacted]
U.S. Attorney's Office
Executive Assistant
Judiciary Center
555 4th Street, NW.
Washington, DC 20001

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Dear [Redacted]

Per your request of October 22, 1986, I am enclosing the information promised you on the matter we discussed.

Thank you for meeting with my staff and myself so promptly.

Sincerely,

JOYCE BLALOCK
Inspector General

Enclosures

46A-11420-1

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NINETY-NINTH CONGRESS

Congress of the United States

House of Representatives

LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE
OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM 8-373

WASHINGTON, DC 20515

September 15, 1986

The Honorable John O. Marsh, Jr.
Secretary
Department of the Army
Washington, D.C. 20310

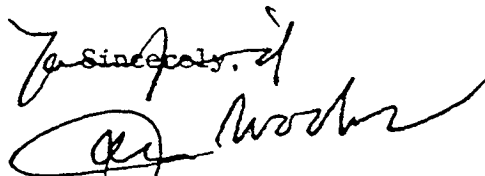
Dear Mr. Secretary:

The Subcommittee on Legislation and National Security of the House Committee on Government Operations has scheduled hearings for Thursday, September 25, 1986, on the manner in which the Government Printing Office awarded the 600-S computerized printing contract to Electronic Data Systems Corporation. During these hearings, the Subcommittee will review the results of the General Accounting Office investigation into allegations of favoritism and other improprieties associated with this procurement.

Since the GPO conducted this procurement on behalf of the Army, and considering the involvement of Department officials in the technical evaluations leading to contract award, I request that Mr. James R. Ambrose, Under Secretary of the Army, appear before the Subcommittee on September 25 to discuss this and other matters. I also request that Lt. General T. D. Rogers, Assistant Chief of Staff for Information Management, Colonel R. F. Milwee, Jr., Director of Army Publications, and Major Steve A. Baber, Project Implementation Branch Chief, accompany Mr. Ambrose to the hearing. Other witnesses will include representatives of the General Accounting Office and the Government Printing Office.

The hearings will begin at 10:00 a.m. in Room 2154 of the Rayburn House Office Building. In order that we may be adequately prepared, we would appreciate receiving 25 copies of Mr. Ambrose's testimony no later than 48 hours in advance of the hearings. In addition, we will need 50 copies of the testimony for public distribution during the hearings.

With best wishes, I am

Very Sincerely,

JACK BROOKS
Chairman

The contents of this report represent a very limited portion of the total review.

GPO'S METHODS AND PROCEDURES USED TO RESOLVE A CONFLICT IN EDS'S FINAL PRICE PROPOSAL RAISE SERIOUS QUESTIONS

The offerors submitted their Best and Final Offer cost proposals on December 16, 1985. During the analysis of the cost proposals, GPO calculated EDS's total offer for Section IV of their bid to be \$27,486,403.16 using unit prices provided by EDS. Using this figure would have placed EDS third in price. EDS's price summary, however, showed a total cost of \$2,413,205 for Section IV or a difference of about \$25 million. The GPO Contracting Officer determined that EDS made a correctable clerical error in the bid and arrived at \$2,374,485.45 ^{1/} as the final EDS bid. Making the correction in EDS's bid changed EDS's price ranking from number three to number one. Conflicting and changing statements by GPO staff responsible for the procurement raise serious questions as to the circumstances under which the EDS corrections were made and whether discussions should have been reopened with all other offerors.

During our initial interviews with the three GPO staff involved, they explained that the error in bid was corrected by way of a telephone conversation. This was apparently supported by a letter from EDS dated December 27, 1985. None of these three GPO staff mentioned face to face meetings with EDS, nor did the EDS letter reference face to face meetings and read in part, "This letter is submitted in response to your telephone inquiry of December 27, 1985." However, several inconsistencies in the descriptions of this telephone conversation prompted further review of this matter.

GPO visitor logs revealed that five people from EDS (at least four of whom had direct Program 600-S involvement) came to GPO on December 26, 1985, and were in the building for approximately two hours, and four people from EDS came to GPO on December 27, 1985, and remained for approximately 45 minutes. In both instances, EDS staff were signed in by the Program 600-S Contracting Officer. Another GPO employee stated that he was present from time to time in a December 26, 1985 meeting between EDS and two of the GPO staff responsible for the procurement.

In subsequent interviews, we provided the GPO personnel with clear evidence that they had face to face discussions with EDS personnel. The GPO staff involved then stated that they did in fact meet with EDS, however, their recollections of the details are still in conflict. They stated that, although they do not remember specific details, the discussions were limited to clarifications of clerical errors. In this regard it should be noted that the EDS Summary Sheet total for Section IV was \$2,413,205 but the final figure used by GPO for this Section was \$2,374,485.45.

^{1/} We have not examined the cost line items comprising the offerors bids and therefore cannot render an opinion as to the accuracy of this amount or other offerors computed bids.

Chapter XV, entitled "Negotiation", of GPO's Printing Procurement Regulation (PPR) describes the policies and procedures to be observed in procurements by negotiation. In regard to disclosure of mistakes, Chapter XV, Section 6, provides for clarification of minor informalities or irregularities and apparent clerical mistakes. The PPR states at Section 6, Subsection 6, "However, if the resulting clarification prejudices the interest of other offerors, award may not be made without discussions with all offerors within the competitive range." (We draw no conclusions with respect to the legal meaning of this phrase.) When questioned about this PPR requirement, the Contracting Officer stated that he was not aware of the Negotiation part in the PPR because he never had reason to read it. He said that he could not argue that the interest of other offerors was not prejudiced, and based on his lack of experience with negotiated contracts, he erred in the way he handled the EDS mistake. This interview was tape recorded and attended by members of the Office of the Inspector General, GPO's General Counsel and the U.S. General Accounting Office.

During our interviews of the GPO staff involved in the procurement, GPO's Office of General Counsel claimed attorney-client privilege with respect to advice given the GPO personnel. As a result, we do not know what advice was provided to the GPO procurement staff or whether the staff used any advice they received.

The magnitude of the discrepancy (\$25 million), the change in EDS's price ranking from number three to number one, the changing and conflicting statements by GPO staff, and the admission by the Contracting Officer that he did not follow the PPR raise serious questions about whether price discussions should have been reopened with the other offerors.

FAIRNESS OF BENCHMARK PROCEDURES

GPO and Army staff handling the procurement allowed EDS to deviate from written benchmark procedures and instructions to offerors. These deviations permitted testing an Optical Character Reader (OCR) outside specified test times; testing more than one OCR and testing at a geographic location other than the benchmark site. The methods used by an Army employee to score the OCR, resulting in a higher benchmark score for EDS, appear questionable. Also, the requirements concerning 600 lines per inch (LPI) of camera ready copy were relaxed for EDS. The justifications for these deviations were not documented by the GPO staff.

Testing and Evaluation of OCR Appear Questionable

EDS's benchmark was conducted in Tampa, Florida during the week beginning on Monday October 28, 1985. However, EDS was permitted to test a Kurzweil OCR in Detroit on the Saturday, (October 26, 1985) before the benchmark was scheduled. This appears to have given EDS additional testing time. The Kurzweil was part of the EDS proposal.

The benchmark procedures state that the benchmark team will be available for testing during normal working hours. A letter dated October 8, 1985 from GPO's Contracting Officer to EDS provided that the benchmark would be conducted during Monday, October 28 through Thursday, October 31, 1985 and that the OCR test would begin on the first day, October 28, 1985. Letters

to the other offerors stated that their benchmarks would begin either on a Monday or Tuesday and end on Thursday or Friday. During the benchmark in Tampa, Florida, EDS was permitted to test a second OCR (Palantir). The Palantir was not included in EDS's proposal at the time of the benchmark. One vendor told us they requested the benchmarking of an alternate piece of equipment; but GPO denied the request.

The Army employee in charge of the benchmark told us that GPO's Contracting Officer called him the Thursday before EDS's benchmark was to begin and said EDS had requested permission to test the Kurzweil in Detroit, and that EDS said they could not get the Kurzweil to the benchmark site. The Army employee said the Contracting Officer asked if the Army employee had any problem going to Detroit and testing the Kurzweil. The Army employee said he had no problem and did go to Detroit with another Army employee and tested the Kurzweil on Saturday, October 26, 1985. This is a deviation which conflicts with written benchmark procedures and with written instructions to each offeror.

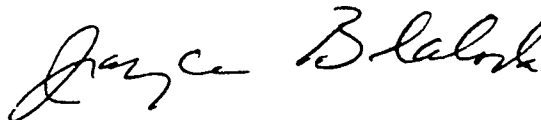
Available evidence suggests that subsequent to the benchmark the Army employee in charge of the benchmark gave EDS an OCR score higher than substantiated by the official benchmark scoring sheets. The Palantir received a perfect score of ten. However, the score sheets for the Kurzweil clearly show that it did not receive a score of ten. The final evaluation submitted by the Army shows that EDS received a perfect score for the OCR text scanning test. The Army employee told us that the final score was for the Kurzweil and acknowledged that the final score was higher than the score on the official benchmark score sheets. The employee told us that such revisions of scores often occurred because he made subjective evaluations on various tests. He said that when he prepared the final scores of each test he based them not only on the specific benchmark test score sheets, but also on information from the other tests and the offerors proposals. He also said that he rounded scores in some cases. He said that his evaluation and the differences between the benchmark score sheets and his final evaluation scores were not documented or reviewed by anyone. The responsible GPO procurement staff do not agree among themselves as to whether the Kurzweil or Palantir score was used. He also said the Kurzweil tested in Detroit was a Kurzweil 3000; not the Kurzweil 4000 which was in EDS's proposal.

Apparently, EDS was given additional testing time outside of normal testing hours, and the final Army score does not accurately reflect the score on the official benchmark scoring sheets. Since the Army employee did not document his subjective evaluation, we cannot determine the fairness of the final score.

Requirements to Demonstrate 600 LPI of Camera Ready Copy

The Request For Proposal required the offeror to have the ability to generate 600 lines per inch (LPI) of camera ready copy. The benchmark procedures required that the offeror have the demonstration system set up, tested and ready for use upon arrival of the benchmark team, including the ability to demonstrate 600 LPI of camera ready copy. Indeed, a letter dated October 2, 1985, from the Contracting Officer to Xerox stated that demonstration of 600 LPI of Camera ready copy would be required.

Several GPO and Army staff involved in the procurement told us that EDS was not required to, nor in fact did, demonstrate 600 LPI. The Contracting Officer stated that EDS did not demonstrate 600 LPI. He said that Xerox and the other offerors would have assumed that they had to demonstrate 600 LPI. Two Army benchmark team members we interviewed stated that EDS did not demonstrate and at the time was not capable of demonstrating 600 LPI. Several GPO, and Army staff we interviewed indicated that processing at less than 600 LPI would put less stress on the processing system.

A handwritten signature in cursive script, reading "Joyce Blalock". The signature is written in dark ink and is positioned above the printed name.

JOYCE BLALOCK

United States General Accounting Office
Washington, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 10:00 A.M.
SEPTEMBER 25, 1986

STATEMENT OF
MILTON J. SOCOLAR

SPECIAL ASSISTANT TO THE COMPTROLLER GENERAL
UNITED STATES GENERAL ACCOUNTING OFFICE

BEFORE THE

SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

ON

IMPROPRIETIES IN THE AWARD OF AN ARMY/GPO
CONTRACT FOR PRINTING-RELATED SERVICES (PROJECT 600-S)

Mr. Chairman and Members of the Committee:

We are pleased to be here today. On January 29, 1986, you and Congressman Horton requested that we investigate several allegations of impropriety in connection with project 600-S, the \$300 million procurement of electronic publishing services conducted by the Government Printing Office (GPO) and the Army. The contract, which was awarded to Electronic Data Systems (EDS) in January, was terminated by GPO on June 19, due to a "serious technical error" in the award process.

Specifically, you requested that we determine whether GPO and the Army procured 600-S without proper authority due to their failure to comply with the Brooks Act; whether bid prices were changed for the awardee, EDS, after best and final offers were received; whether test scores were changed to the benefit of EDS; and whether a conflict of interest existed in that an Army employee who worked on the request for proposals was courting EDS for employment prior to award.

We found serious deficiencies in the conduct of this procurement. During the early rounds of proposal evaluation, EDS submitted offers judged to be among the least desirable on the basis of both technical and price considerations. EDS, however, ultimately won the contract with the highest technical score and the lowest priced offer. Although such a dramatic

reversal, in and of itself, is not unprecedented, we found in this case that Army and GPO officials took highly questionable actions which favored EDS.

First, although project 600-S should have been procured in accordance with the Brooks Act, it was not. The Project encompasses substantial ADP services, severable from printing and publishing, and GPO was not exempt from the Brooks Act for purposes of this procurement.

Second, EDS was improperly allowed to lower its price by about \$25 million. This moved EDS from third place to first place in the price competition. GPO held face-to-face discussions with EDS on two occasions, improperly allowing EDS to make significant corrections to its proposal and negotiating a reduced price after negotiations with all offerors had been terminated. These discussions were undocumented.

Third, the Army allowed EDS to test its optical text scanner prior to its benchmark test, giving EDS 12 hours more than any other contractor to complete its benchmark. The Army also eliminated a benchmark requirement that only EDS was unprepared to demonstrate. Further, benchmark test score changes made by an Army major after the benchmark evaluation teams had scored the competitors allowed EDS to win the benchmark.

Fourth, an Army employee was appointed to the technical evaluation team even though the head of the Army Publications Directorate knew that this employee was engaged in a protracted job search with EDS' parent company, General Motors. A later offer of employment by EDS was withdrawn on what was to be the employee's first day of work because of complaints raised by other contractors to Army officials.

Finally, we found that government personnel responsible for evaluating contractor proposals accepted gratuities in the form of food and drink at parties held by prospective contractors during the course of the procurement after their respective benchmark tests.

BACKGROUND

Project 600-S is designed to automate the Army's publishing base for technical and training manuals. The winning contractor was to provide text storage, revision and printing services for approximately 200 local area network sites worldwide.

The system was to be totally integrated and interactive, providing archival storage, publishing base management and continuous updating of documents. Each local area network, or "LAN," was to be capable of providing limited on-demand printing through ADP means for local use.

The contractor also was to provide for large and small volume printing of publications requiring manufactured covers and commercial binding or printing methods. Distribution was to be through an automated distribution system capable of computerized label and packet list generation, state-of-the-art distribution list manipulation and management, and by the most economical method of transport.

Further, the contractor was to install and maintain all local devices, provide all necessary software and train government personnel in the operation of all support system devices. The contractor was to be responsible for developing a nationwide communications network providing access to the publishing base by all participants in the system.

On January 9, 1986, the 600-S project was awarded to EDS at an evaluated price of \$62,930,833.52. On June 19, GPO terminated the 600-S contract "based upon the determination that a serious technical error occurred in the procurement process leading up to the award." To date, GPO has not officially announced details of the "serious technical error" made, and work on project 600-S is suspended.

THIS PROCUREMENT WAS SUBJECT TO THE BROOKS ACT

The Brooks Act authorizes and directs the Administrator of GSA to "coordinate and provide for the economic and efficient purchase, lease and maintenance" of commercially available, general purpose ADP equipment by federal agencies. Under the Brooks Act, GSA may act exclusively in the acquisition of ADP equipment for agencies, or it may delegate procurement authority to the agencies. Absent a delegation of procurement authority from GSA, an agency lacks the authority to acquire ADP equipment or services.

In its Federal Information Resource Management Regulation (FIRMR), promulgated to implement the Brooks Act, GSA states that "ADP resources include ADP equipment, software, related supplies, maintenance services, ADP services and ADP support services." The regulation directs, when the subject matter of a contract is for something other than ADP resources, that "if it is operationally feasible to sever the ADP resources requirement from the overall requirements, they shall be severed and contracted for in accordance with the FIRMR if this action will promote economy, efficiency, and full and open competition"

The subject matter of 600-S concerned the acquisition of a totally integrated electronic publishing, storage, retrieval and printing service, consisting of contractor-furnished

services and contractor-owned devices for bulk and limited local printing.

The ADP portions of 600-S are not involved directly in the bulk printing process. Rather, the bulk printing portion of the contract takes place after the electronic revision and storage of data, that is, after data processing. The Army would have the option to print up-to-date publications locally on computer printers or to produce bound documents by bulk printing from centrally produced camera-ready copy delivered to a printer.

The EDS price for ADP totaled more than 49 percent of its complete price. Other offerors' ADP prices ranged from 50.9 to 70.6 percent of their total prices. It is telling that none of the offerors were printing firms and that all had subcontracting arrangements with printing companies to provide the bulk printing services required. Indeed, though the local networks for this contract were not established, EDS has executed about 1,300 printing orders through its printing contractor, Custom Printing, in much the same way as GPO might under a standard GPO printing contract. Thus, in our view, the 600-S contract includes ADP equipment and services subject to the Brooks Act.

EDS has argued that the 600-S contract is not subject to the Brooks Act because it is funded out of the GPO revolving

fund. We disagree. The argument is based on provisions in the Legislative Branch Appropriations Act of 1977, Pub. L. No. 94-440, which authorizes expenditures from the Government Printing Office revolving fund for the lease, maintenance or purchase of ADP without regard to the provisions of the Brooks Act.

The 1977 provisions include no words of future application or express language suggesting that Congress intended for it to apply beyond the then current fiscal year. To the contrary, expenditures under the provision were limited to programs and purposes "set forth in the budget for the current fiscal year."

The Public Printer, appearing before the House Legislative Branch Appropriation Subcommittee in 1978, requested that the 1977 Brooks Act exemption be included in the 1978 appropriation. The exemption was not included in the 1978 Appropriations Act and the House Report accompanying the 1978 Act states that "the Committee recommends the deletion of the exemption." It is important to note also that while the contractor would receive payment from the GPO revolving fund, the Army would be reimbursing GPO and the Army funds ultimately expended clearly are not exempt from the Brooks Act.

EDS WAS IMPROPERLY ALLOWED TO LOWER ITS PRICE
AFTER BEST AND FINAL OFFERS WERE SUBMITTED

EDS was allowed to lower its price by approximately \$25 million after best and final offers, thus causing it to move from third place to first place in the price competition. GPO held face-to-face discussions with EDS on two occasions during which GPO allowed EDS to change what was incorrectly determined to be a "clerical error," negotiated a price reduction on another item and accepted a price that EDS failed to provide in its best and final offer, all of which was improper. The fact that these significant changes were made without any documentation of their surrounding circumstances raises serious questions.

Best and final offers were due on December 16 and were priced by GPO as follows:

	<u>PRICE</u>
Xerox	\$ 67,925,428.23*
AT&T	74,756,180.84*
EDS	89,301,255.28
Volt	130,695,862.20*

*prices prior to minor correction for editing errors.

On December 23, Ms. Kathy Phillips, a GPO contract specialist, detected what was termed a "decimal error" in

certain EDS unit prices which, when multiplied by estimated quantities, yielded extended prices totaling \$27,486,403, an unusually high amount. A summary sheet of prices which EDS had submitted with its BAFO showed the relevant total as \$2,413,205, substantially lower than the \$27,486,403 GPO had calculated. The RFP did not call for such a summary, and EDS was the only offeror to include a summary with its proposal.

Ms. Phillips informed the contracting officer, Mr. Richard Lee, of the suspected mistake, and Mr. Lee, after consultation with his supervisor, Ms. Patricia Gardner, sought telephonic verification of the prices from Ms. Ann Cohen of EDS on Christmas Eve. According to Ms. Cohen's notes on the call, GPO officials informed EDS of the suspected decimal error and prices missing from EDS' proposal for services outside the continental United States (OCONUS). Though the record is unclear at this juncture, a return conference call from Ms. Cohen in Bethesda and Mr. Barry Ingram, EDS Project Manager, in Springfield, appears to have been made to Mr. Lee, during which the possibility of a mistake was discussed and, according to Ms. Cohen, a meeting was planned for the delivery of a clarifying letter.

On December 25, EDS people met amongst themselves to decipher the problem. On December 26, five EDS employees: Dean Dowling, Robert McCashin, Anne Cohen, Pat Horner and John

~~King~~, signed into GPO at 8:40 a.m., and for approximately two hours, met with Mr. Lee and Ms. Gardner. According to Mr. Dowling of EDS, GPO initially thought that the GPO computer model for calculating costs contained an error. Mr. Dowling went on to say that "it took quite a while and they [GPO] looked at it again and said, 'nope, dog-gonnit, it is your [EDS] mistake.'"

After recognizing that there was no error in the GPO computer program and that EDS had not made a simple "decimal error," the parties concluded that EDS prices were overstated by a factor of 12 due to its failure to convert annual prices to monthly prices. EDS explained that it was confused over Amendment No. 5, issued on March 22, 1985, prior to the submission of initial proposals, which clarified that unit prices for the items at issue should be 1000 bytes per month. GPO allowed EDS to make this "correction."

Mr. Lee also renegotiated an item not in dispute stating that he "forced" this change on EDS to "[g]et the best price for the government."

A second meeting took place on December 27, between Mr. Dowling, Ms. Cohen, Mr. McCashin and Mr. Horner of EDS and Mr. Lee. It is not clear from the evidence available what transpired at this meeting.

What strikes us as particularly strange about these meetings, aside from the fact that they constituted an improper exclusive negotiation of prices after BAFOs, is that no documentation of these meetings exists. Every document we reviewed in GPO's files concerning the chronology of 600-S events, while noting other meetings, fails to identify any meetings between GPO and EDS personnel on December 26 or 27. This includes a document signed by Mr. Lee and Ms. Phillips which purports to describe the events surrounding correction of the alleged mistake. Likewise, an EDS letter of December 26 relating OCONUS prices states only that it is pursuant to a prior phone conversation.

Significantly, during many hours of interviews with GAO investigators and the GPO Inspector General (IG) staff, neither Mr. Lee, Ms. Gardner, nor Ms. Phillips ever mentioned these meetings in their descriptions of the events surrounding the price correction. The existence of these meetings did not surface until we received testimony from a GPO employee who acted as a messenger for the meetings. It was only when confronted with sign-in sheets from the GPO security desk showing EDS personnel entering the building on those dates to meet with Mr. Lee that both Mr. Lee and Ms. Gardner recalled meeting with EDS. We understand that the IG is conducting a criminal investigation to determine whether Mr. Lee, Ms. Phillips or Ms. Gardner made false statements with regard to the meetings.

From a procurement law standpoint, this alleged EDS mistake was not a minor informality or clerical error for which correction could have been permitted without opening negotiations to all. The GPO Printing Procurement Regulation (PPR), identical in all material respects to the Federal Acquisition Regulation (FAR), defines a minor informality as a defect "which merely is a matter of form and not of substance, or pertains to some immaterial or inconsequential defect . . . , the correction or waiver of which would not be prejudicial to other bidders."

As to clerical errors, the PPR provides that they may be corrected if the contracting officer first obtains written verification of the intended bid, and the mistake "is apparent on the face of the bid." If the resulting clarification would prejudice the interests of other offerors in a negotiated procurement, however, award may not be made without reopening discussions with all offerors. Here, even if we were to concede that a mistake was apparent on the face of the EDS proposal, the intended prices are in no way discernable from the proposal.

It is important to recall also, that in failing to provide OCONUS prices in its BAFO, EDS may have been non-

responsive to the solicitation. This may have warranted the rejection of its offer from consideration.

In sum, under applicable procurement law, GPO improperly allowed EDS to lower its prices under the guise of a "clerical" error, improperly renegotiated another undisputed line item and improperly accepted prices for OCONUS which were not originally contained in EDS' BAFO.

EDS BENEFITTED FROM ARMY CHANGES IN THE ADMINISTRATION OF THE BENCHMARK TEST

The Army changed benchmark test requirements for optical character text scanning and for high resolution printing. Both of these changes ultimately benefitted EDS.

A benchmark test package was sent to offerors on September 18, 1985. The package listed 12 functions which the contractor "must be capable of performing." A series of ten tests was devised to evaluate these functions. One or two people evaluated each of the ten tests, and their work was overseen by Major Stephen Baber, the Benchmark Test Administrator.

At the benchmark sites, the tests were divided into events and sub-events. Each event and sub-event, except for

the last event in each test, entitled "Ease of Use," was to be answered "yes" if accomplished or "no" if not accomplished. A space for "comments" was provided. The "Ease of Use" section was rated on a scale of 1 to 10, with 10 signifying most user-friendly.

These tests were performed at the offerors' sites between October and December 1985. Offerors were given five days to complete the test.

EDS was allowed to demonstrate its optical character text scanner--a Kurzweil--at a location other than its Tampa, Florida, benchmark location, before the official start of its benchmark. We were informed by Ms. Phillips that in the summer of 1985, EDS contacted GPO and requested that it be allowed to perform its test on General Motors' Kurzweil in Detroit, Michigan. The reason, according to EDS, was that the Kurzweil is expensive and EDS would have had to purchase one just for the test. After consultation between Ms. Phillips, Mr. Lee and Ms. Gardner, GPO allowed the testing at Detroit on the weekend prior to the start of the EDS benchmark. EDS was the only offeror that asked to demonstrate its equipment at a location other than its benchmark location.

The effect of allowing EDS to demonstrate its Kurzweil in Detroit was to provide EDS with more time to complete its benchmark. The scanner test was allotted 12 hours; so EDS was given 12 hours in addition to its allowed five days. Some of this time was used by EDS to demonstrate and have scored informally a Palantir Composed Document Processor, which EDS substituted for the Kurzweil in its BAFO. In addition, EDS received a higher Ease of Use score, 5, for its Kurzweil. All other offerors utilized a Kurzweil and received a score of 4.

Next, we found that a requirement for high resolution printing (600 lines per inch) was not tested at any of the benchmarks. All offerors except EDS came to their benchmark tests prepared to provide output necessary to establish their capability to meet this requirement.

The RFP required that each local area network be capable of producing output sufficient to run a high resolution typesetter and the benchmark package required that this capability be demonstrated. The typesetter itself, however, was not required to be located locally.

When Xerox questioned how evaluation of high speed printing would take place if the typesetter did not need to be

co-located locally, Mr. Lee responded in an October 2, 1985, letter to Xerox:

"Once the test document has been transmitted to the 600 lpi camera copy device, the output [e.g., in the form of a tape] is to be provided to the test team for later analysis. This analysis will be to determine the accuracy and suitability of the final output page, including the 600 lpi requirement."

This requirement, as set out by Mr. Lee, was not tested at the benchmarks even though all of the offerors, except for EDS, arrived with purported capability to fulfill this requirement. When we asked Ms. Gardner why the 600 lpi requirement was not tested, she responded that she did not have the technical background to answer the question. Mr. Lee said that no one discussed this change with him in advance. Colonel Milwee, on the other hand, thought he remembered an amendment to the RFP eliminating this requirement from the test but, in fact, there was no amendment.

According to Major Baber, however,

"the [offerors] that did have a 600 LPI output at their management site asked permission to give us 600 LPI output--asked me specifically, and I said, certainly, I'll be happy to receive it. EDS did that, Volt, Xerox, AT&T--all demonstrated 600 LPI at their Benchmark."

The fact is, though, that EDS did not and could not demonstrate this requirement at its benchmark. Assuming that EDS did submit such a tape--to date no tape of EDS output has been found--the tape would not have been able to run EDS' typesetting device. According to Army officials, EDS did not have the computer coding in place on the tape to run the typesetter. Apparently, the company possessing the proprietary interest in the coding had not given EDS permission to use its coding.

When asked whether the failure to test this requirement at the EDS benchmark was pure luck for EDS, since it did not arrive prepared, Mr. Lee responded:

"[I]t's a case of the government didn't do its job [T]he government should

have requested it because it's a requirement."

The result of the government not doing its job, as Mr. Lee puts it, was that the contractors who came to their benchmarks prepared to demonstrate a requirement of the RFP received no more credit than EDS, which did not come prepared to, and could not, demonstrate a capability to meet the requirement.

BENCHMARK TEST SCORES WERE CHANGED
BY MAJOR BABER TO EDS' BENEFIT

We found that Major Baber unilaterally changed the benchmark scores given by evaluators charged with scoring the benchmarks. As a result of Major Baber's changes, EDS won the benchmark.

The benchmark was divided into ten separate tests containing events and sub-events which were scored separately and weighted in accordance with a predetermined formula.

According to Major Baber, some of the events in each of the ten tests were designated as critical. Major Baber previously stated that critical meant "must pass." He states that he transcribed benchmark scores onto a master score sheet, and that, in the transcription, he changed one score (after checking with the scorer), a "fail," given to AT&T, to "pass."

Major Baber also told us that he made several other score changes to correct for administrative errors or imperfections in the benchmark test. For example, he states:

"It was necessary to have a test element in Test 1 that could also be replicated at Test 3. It is also possible that the observer in Test 1 may have recorded that as a failure. Yet, in a subsequent test, it was retested at a different place within the network, a passing score could have been awarded. So when I transcribed the scores . . . where the requirement was satisfied in a subsequent test but reflected a fail score in a previous test, I gave them a pass score for that element in the previous test."

All changes, according to Major Baber, were based on what was demonstrated at benchmark.

We found, however, that Major Baber's changes were not limited to the circumstances he described. Many of the changes he made appear to have been without any reasonable basis. For example:

--In test 1, event 1, contractors were required to retrieve documents by title and number with an automated page make-up device. EDS only demonstrated retrieval by number; yet, Major Baber passed EDS with a full score. Indeed, Major Baber, in an interview previous to his sworn statement, admitted that EDS failed to demonstrate this requirement, and that he passed EDS on the basis of his expert opinion as to its capability.

--In test 4, event 1b, contractors were required to demonstrate automatic input feeding with an optical graphics scanner. EDS could not perform this task, and in its BAFO expressly stated that it was not capable of performing this task. Major Baber passed EDS on this test.

--In test 7, event 5h, contractors were required to review two pages simultaneously without overlap using an automated page make-up device. EDS failed to perform this task and stated in its BAFO that performance of this task may result in the overlapping of page edges. Major Baber changed the EDS score to a "pass."

There are many other examples of these types of changes, demonstrating that Major Baber's changes to the benchmark scores clearly did not center on administrative adjustments to the evaluators' results. Moreover, Major Baber neglected to inform both the contracting officer and his Army superiors of these changes, despite the fact that they were among the critical tests which contractors were required to pass.

The significance of Major Baber's actions becomes apparent when we review the results against the outcome of the evaluators' original scores: EDS went from third place to first place in the benchmark test.

<u>RANK</u>	<u>MAJOR BABER'S WEIGHTED SCORE</u>	<u>OFFEROR</u>	<u>EVALUATORS' WEIGHTED SCORE</u>	<u>RANK</u>
1	87.1	EDS	80.14	3
2	86.0	AT&T	82.06	2
3	84.4	Xerox	83.21	1
4	59.9	Volt	59.89	4

AN ARMY EMPLOYEE WAS IMPROPERLY APPOINTED TO THE
TECHNICAL EVALUATION TEAM WHILE SOLICITING EMPLOYMENT
FROM EDS' PARENT COMPANY, GENERAL MOTORS

We found that an Army employee was appointed to the technical evaluation team even though Colonel Milwee, the head of

the Army Publications Directorate, knew that this employee was engaged in a protracted job search with EDS' parent company, General Motors. This employee later was offered employment by EDS. The offer was withdrawn on what was to be the employee's first day of work because of complaints raised by other contractors to Army officials.

~~US F 012003~~
(Mr. Anthony Cuneo) a member of the 600-S technical evaluation team began seeking outside employment in late 1984. He sent his resume to, and discussed the possibility of employment with, a friend, Ralph Peck, a former Army employee who now works for General Motors. On May 10, 1985, Mr. Peck informed Mr. Cuneo that he had discussed Mr. Cuneo's qualifications with Mr. Henry Endt of EDS. According to Mr. Cuneo, Mr. Peck asked if he could send Mr. Cuneo's resume to Mr. Endt. Because this conversation took place while Mr. Cuneo was serving on the technical evaluation team, Mr. Cuneo states that he denied Mr. Peck permission to send his resume.

On the following Monday, May 13, Mr. Cuneo states that he arrived at the Publications Directorate, informed his team members that he was recusing himself from project 600-S and attempted to see Colonel Milwee. Mr. Cuneo waited the entire day but did not see Colonel Milwee. That afternoon or the following morning, fearing that he might not speak to Colonel Milwee, Mr. Cuneo prepared a note disqualifying himself from

the procurement process. The note mentioned EDS; indeed, it stated that his resume had been forwarded to EDS, a fact which Mr. Cuneo now says "wasn't true." Mr. Cuneo does not recall why he wrote that his resume was forwarded to EDS. In any event, Mr. Cuneo states that he gave the note to Colonel Milwee or Colonel Milwee's secretary on May 14, and he informed Colonel Milwee of his circumstances vis-a-vis EDS on the same day.

Subsequent to disqualifying himself from the procurement, Mr. Cuneo made arrangements to interview with Mr. Endt at an EDS office at Camp Hill, Pennsylvania. During his June 6 interview with EDS, Mr. Cuneo received an oral offer for employment which he orally accepted the following day. His first day of employment was scheduled for June 24 in Troy, Michigan.

Complaints from contractors led Colonel Milwee to contact EDS about Mr. Cuneo's 600-S connection. According to Mr. Cuneo, when he reported for work Monday morning, June 24, Mr. Endt informed him that because competitors were "making accusations," EDS was withdrawing its offer of employment. Mr. Cuneo returned to a job with the Army that did not involve work on 600-S.

We have no evidence, that Mr. Cuneo released the proposal information of any contractor during this entire chain of events. Mr. Endt's activities at EDS are not connected with

project 600-S, and Mr. Endt states that he had no knowledge of the 600-S procurement. Nevertheless, Anthony Cuneo should not have been assigned to evaluate proposals given Colonel Milwee's knowledge of Mr. Cuneo's employment overtures to General Motors.

Colonel Milwee stated to us in portions of his sworn statement that he was uncertain as to when General Motors acquired EDS. In other portions of his statement, however, Colonel Milwee indicated that he knew of the EDS/General Motors relationship but did not consider it important enough to have an impact on Mr. Cuneo's participation in the 600-S procurement.

GOVERNMENT PERSONNEL CONNECTED WITH 600-S ACCEPTED GRATUITIES FROM 600-S OFFERORS

Finally, we found that government personnel connected with project 600-S accepted gratuities in the form of food and drink at parties held by contractors after their respective benchmark tests.

According to Major Baber:

"[a]ll of the contractors had some form of party, celebration, which they had beverages, both alcoholic and non-alcoholic and

finger sandwiches, hors d'oeuvres and things like that."

Early in our investigation, we asked Mr. Richard Shlakman, EDS Vice President for Legal and Government Contract Administration, to provide us a list of attendees at the EDS benchmark party. Mr. Shlakman, in a notarized letter of May 21, 1986, stated

"EDS did not sponsor or host a hospitality suite, reception or similar event at . . . its benchmark in Tampa and therefore has no logs or other records of attendees."

Later, however, EDS admitted that it co-hosted a benchmark party with IBM, but claimed that no government personnel were invited.

Major Baber states that he was approached by Mr. Ingram of EDS during the benchmark and invited to attend a celebration on the Friday after benchmark. Mr. Ingram, on the other hand, states that as far as he knew, "nobody invited them" to the party and that "[i]t wasn't ours to invited (sic)" He states that it was "common knowledge" that EDS was having a party with IBM, and that he "didn't go around and tell them they couldn't come or anything like that."

Further, Major Baber states that he approached the GPO contracting officer, Mr. Lee, told him of the party and asked if there was any problem with benchmark evaluators attending. Major Baber states that Mr. Lee saw no reason why the benchmark evaluators could not attend. Mr. Lee, however, states that he "didn't know there was a cocktail party hosted by EDS" With respect to attendance at parties in general, however, Mr. Lee states:

" . . . everyone offered, everyone wanted something like that. Not only did I discourage it, I warned Army against it very strongly. I also made sure that everybody paid their fair share of any catered meals. We were doing everything we could to be very defensive."

At the Xerox benchmark test, according to Major Baber, he was approached by Sue DiGiacinto. She invited the benchmark evaluators and Major Baber to attend a party after the test. Xerox admits to hosting a post-benchmark party.

Major Baber states that AT&T had a party and a dinner after its benchmark. Government persons who attended dinner, according to Major Baber, received receipts for their meals

and, presumably, paid for their dinners. Major Baber states that the party took place prior to the dinner. AT&T generally agreed with Major Baber's recollection.

Major Baber also states that Volt had a number of celebrations during the benchmark test, and that Volt "invited us to attend them. We did not attend any of them except after the benchmark was over" Volt, however, denies that it sponsored any parties.

Suffice it to say, Mr. Chairman, that virtually every contractor, according to Major Baber, approached him during their respective benchmark tests and invited benchmark evaluators to post-benchmark parties at which food, soft drinks and alcohol were served at no charge. Government personnel attended all of these parties. In response to our inquiry as to whether it is appropriate for benchmark team members to attend contractor parties after benchmark tests, Colonel Milwee states:

"Not in a form that compromises their integrity to make judgments."

* * * * *

"I give permission to the people who work for me to obey the minimum civilities of American social customs and do not compromise themselves in doing so."

Major Baber states that it is not improper for benchmark evaluators to receive food and drinks from contractors during the course of a procurement "[i]n the normal process of socializing."

In my view, that is not an acceptable position. The issue is not whether the acceptance of food and drink at a cocktail party, in and of itself, would corrupt any individual judgment made in the course of evaluating contract proposals. The point is that it is essential to avoid even the appearance of conflict and accepting favors from contractor personnel while in the process of evaluating their proposals is clearly inappropriate.

CONCLUSION

In conclusion, the 600-S procurement was flawed from the very beginning. Aside from the fact that it did not proceed under the proper authority, i.e., the Brooks Act, GPO and Army officials improperly favored EDS during the procurement process. Under the circumstances, we think that GPO's decision in June to terminate the 600-S contract was wise.

I would close by pointing out that apart from the matters I have covered, the Surveys and Investigations staff of the House Committee on Appropriations found:

"[c]oncerns raised over the Army's contract centered around the lack of financial analysis to determine the cost or savings to the government. Additionally, the primary users in the field, Major Army Commands (MACOMS) were not consulted on this contract and were not told the amount of start-up costs, recurring costs and the cost per page prior to implementation of the contract. In fact, the MACOMS were not asked to review the proposal until three months after contract award. Army officials at one MACOM advised that a printing job that would cost \$70,000 under competitive bid procedures is costing approximately \$125,000 under the 600-S contract. The S&I staff was further advised that two MACOM commanding generals are preparing a joint letter of protest to the Department of the Army regarding the 600-S program."

House Comm. on Appropriations, Report to Accompany H.R. 5438, H.R. Rep. No. 795, 99th Cong., 2d Sess. 56 (1986).

In light of the fact that the House Appropriations Committee has directed the Department of Defense to establish a Defense Printing Agency and to halt all funding for electronic printing services until after the establishment of that agency, we have no recommendations to offer at this time. We will, however, continue to monitor the 600-S situation as it develops.

STATEMENT
OF
HONORABLE JAMES R. AMBROSE
UNDER SECRETARY OF THE ARMY
BEFORE
THE

COMMITTEE ON GOVERNMENT OPERATIONS
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
HOUSE OF REPRESENTATIVES
25 SEPTEMBER 1986

By letter of September 15 (attached), you asked me to appear before the Legislation and National Security Subcommittee of the Committee on Government Operations to discuss the Army's role in GPO Contract 600-S and "other matters".

I am pleased to appear as you have requested. I will endeavor to answer the Subcommittee's questions on these subjects as fully as I can and to provide any additional information for the record that may be appropriate.

I have endeavored to prepare for this hearing by reviewing a very substantial body of information which deals with the extensive administrative, legislative and judicial actions which have occurred, not only directly in relation to 600-S, but also pertinent prior actions, particularly in legislation. I do not make this comment to suggest that I have become an expert on the totality of the very complex issues involved, or to excuse myself from responsibilities which automatically lie on the Under Secretary of the Army. Rather, I simply tell the Committee that I did not have a full comprehension of the range of the Committee's interests until I made this review. My prior involvements in this 600-S matter were limited to inquiries about the reasons for the various

protests and appeals which had been set in motion by one entity or another.

It seems to me, reflecting on my review of this complex matter, that we have interests and issues on several different levels, ranging from direct, narrowly focused questions of conduct of the 600-S procurement to very broad policy issues of jurisdiction and definition related to the entirety of Federal Government usage of information. I would like to suggest that we can more readily come to grips with, and hopefully resolve, this range of issues by considering as separate categories:

1. Allegations of improper personal conduct by Army employees (primarily related to the 600-S procurement).
2. Allegations of incorrect or inadequate conduct of the 600-S procurement bid, evaluation, and award processes.
3. Issues of jurisdiction and protest adjudication and their applicability to the 600-S procurement.
4. Issues of a general nature on the definitions and procedures to be used in the Federal Government related to the acquisition and employment of computer-based methods and systems.

5. Questions of adherence to and
performance with respect to the
Competition in Contracting Act (CICA).

On points 1 and 2, I assure you, as have other Army spokesmen previously, that, if there have been errors or improper conduct on any matters within Army purview, they are not condoned, and correction by appropriate means will be sought and applied. We renew the requests previously made by the Army and the DOD IG, the thrust of which are supported in your letter of August 15, for any and all information available to your Committee and the GAO that may have a bearing on such allegations. I will see to it that these allegations are promptly and thoroughly investigated. I advise you that to date, I have not been informed by the GAO that such improprieties actually exist, or will be raised as allegations; nor what their nature may be.

On point 3, you are aware that the question of whether this contract is more appropriately processed as printing services or as an ADP contract under the provisions of the Brooks Act has been the subject of much litigation. That issue has been raised before the General Services Board of Contract Appeals, the District Courts, the Court of Appeals for the Federal Circuit, and

addressed in the OMB decision of April 9, 1986. OMB determined, based upon a careful review of the legislative history of the relevant legislation, that printing services such as those contemplated by GPO Contract 600-S were not subject to the special procedures contemplated by the Brooks Act and mandated that GSA regulations suggesting otherwise be revised and reviewed. The courts have supported the conclusion reached by OMB.

I consider that this subject has been resolved by the decision of the OMB and the ruling of the Courts. But, if there is more to be discussed, I will accept any comments the Committee may make for consideration by the appropriate agencies. I think you can understand that I am not likely to be able to give you a meaningful off-the-cuff unilateral Army response.

With respect to point 4, obviously the Army is only one of many agencies interested in this point and is not in a singular position of establishing policy for the entire group. I will do my best to comment on the present and prospective impact of such issues on Army computer-based activities as you may wish to encompass in the discussions of this hearing.

On point 5, I note that earlier sessions of this series of hearings were titled, "Efforts by Federal Agencies to Circumvent the Competition in Contracting Act". I would not want anyone to conclude that the Army has been any part of such an effort if, in fact, one exists. We have aggressively implemented the competition enhancing program contemplated by CICA. BG Henry has been an extremely active Competition Advocate General and the improvement in percentages of competitive procurements within the Army has been a reflection of command emphasis throughout the Army.

In particular, no one can assert that this procurement has suffered from a lack of competition. This was one of the most hotly competed Army requirements we have ever seen and certainly one of the most hotly litigated.

Finally, I do not believe any real question can be raised over the prospective efficiencies that can be realized by utilizing today's electronic technology to convey information from its multiple sources to the multiple users. This is so whether the conveyance is, in part, via printed matter or entirely via electronic and optical means. The future of this technological revolution promises even greater efficiency.

I trust that we can promptly resolve any differences over procedural matters in order to realize these substantial benefits to the taxpayers and to the Army. I, with the appropriate Army personnel, will do everything we can to help achieve such resolution.

At this time I will be happy to answer any questions that you may have.

memorandum

DATE: *June 11, 1986*

REPLY TO
ATTN OF: Inspector General

SUBJECT: Irregularities in the Program 600-S Procurement

TO: Public Printer

As you requested, the Office of Inspector General (OIG) is reviewing the Program 600-S procurement process. On June 4, 1986, we orally briefed you on our results to date and advised you of many problems which span the entire procurement process. After our briefing, you requested a written report concerning two aspects of the procurement process: Government Printing Office (GPO) methods and procedures used to resolve a \$25 million conflict in the Electronic Data Systems Corporation (EDS) price proposal; and, fairness of the benchmark specifically concerning deviations from established procedures in the EDS benchmark and possible changes made to the EDS benchmark score which may have improved EDS benchmark ranking.

Our review of the Program 600-S procurement is still in progress; therefore, this report reflects the information we have gathered to date. The GPO and Army staff discussed in this report have not been provided a copy of this report for their comment. Further, some of the information herein is claimed to be proprietary by the offerors and should not be disclosed except in accordance with law.

When our review is complete, we will issue a report on all the deficiencies and make recommendations for improving future procurements.

BACKGROUND and SCOPE of REVIEW

The Program 600-S procurement was for the Army Integrated Publishing Service and used the negotiated procurement process. Five vendors submitted proposals for Program 600-S which was awarded to EDS. The purchase order for the contract was dated January 9, 1986 and the estimated cost was \$64,215,136.24. The contract term ends on December 31, 1986. According to the request for proposal, the contract may be extended in one year increments for four additional years.

In conducting our review, we have extensively interviewed the Printing Procurement Manager, Contracting Officer, and Contract Specialist responsible for the procurement. We also interviewed other GPO employees who had knowledge of the procurement and various Army personnel who actively participated in the procurement. Many of these interviews have been tape recorded. We reviewed and analyzed GPO, Army, and vendor documentation relating to the procurement. We have coordinated our work with the General Accounting Office audit team.